

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

ALANA TOMMERAASEN,

Plaintiff,

vs.

PREMIER BANKCARD, LLC, as successor
in interest to PREMIER BANKCARD, INC.,

Defendant.

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CIV. 10-4061

MOTION TO DISMISS

COMES NOW Premier Bankcard, LLC, the Defendant in the above-entitled action, and moves the Court to dismiss Plaintiff's Complaint, pursuant to FED.R.CIV.P. 12(b)(6) for failure to state a claim upon which relief may be granted. This Motion is based upon the allegations upon the face of Plaintiff's Complaint, which reflect that, under the facts as alleged by Plaintiff, her initiation of the administrative prerequisites for this suit was untimely, such that she failed to timely and properly exhaust her administrative remedies. Further, Plaintiff fails to satisfy pleading standards with respect to her allegations of disability discrimination within the meaning of the Americans With Disabilities Act or corresponding state law, such that she fails to state a claim upon which relief may be granted. Accordingly, Plaintiff's claims under the Americans with Disabilities Act and state law should be dismissed.

Dated at Sioux Falls, South Dakota, this 17th day of June, 2010.

DAVENPORT, EVANS, HURWITZ &
SMITH, L.L.P.

/s/ Sandra Hoglund Hanson

Electronically Filed

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Attorneys for Defendant

CERTIFICATE OF SERVICE

Sandra Hoglund Hanson, one of the attorneys for Defendant, hereby certifies that a true and correct copy of the foregoing "Motion to Dismiss" was served by mail upon:

Alana Tommeraasen
415 Johnson Ave.
P.O. Box 179
Baltic, SD 57003-0179
Plaintiff Pro Se

on this 17th day of June, 2010.

/s/ Sandra Hoglund Hanson

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